

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JOE HAND PROMOTIONS, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-22-945-G
)	
MAJORS LLC d/b/a MAJOR’S BAR)	
et al.,)	
)	
Defendants.)	

ORDER

Plaintiff Joe Hand Promotions, Inc. initiated this action on November 1, 2022, seeking damages from, as relevant here, Defendants Majors LLC d/b/a Major’s Bar and Shane R. Wilson for violation of the Copyright Act, 17 U.S.C. §§ 101 et seq. On May 30, 2023, after Plaintiff showed that Defendants had failed to answer or otherwise defend themselves in this lawsuit, the Clerk entered Defendants’ default pursuant to Federal Rule of Civil Procedure 55(a).


Plaintiff now seeks entry of a default judgment pursuant to Federal Rule of Civil Procedure 55(b). Plaintiff’s Motion (Doc. No. 8) is accompanied by an affidavit from Plaintiff’s counsel, as contemplated by Local Civil Rule 55.1. *See* Janis Aff. (Doc. No. 8-7); LCvR 55.1 (“No application for a default judgment shall be entertained absent an affidavit in compliance with the Servicemembers Civil Relief Act.”). The relevant statute prescribes that a court may not enter judgment against a nonappearing defendant unless: (i) the plaintiff files an affidavit “stating whether or not the defendant is in military service and showing necessary facts to support the affidavit”; or (ii) “if the plaintiff is unable to

determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.” 50 U.S.C. § 3931(b)(1).

Plaintiff’s affidavit merely states: “To the undersigned’s knowledge, Defendants are not infants, incompetent persons, or persons in military service or otherwise exempted from default judgment under the Service Members Civil Relief Act of 2003.” Janis Aff. ¶ 9. This statement is insufficient for compliance with the Court’s local rule and 50 U.S.C. § 3931(b). *Cf. Christ Ctr. of Divine Philosophy, Inc. v. Elam*, No. CIV-16-65-D, at *1 (W.D. Okla. Feb. 10, 2017) (finding affidavit sufficient when it stated upon information and belief that the defendant was not in military service and was accompanied by a status report of a database search conducted by the Department of Defense); *In re Montano*, 192 B.R. 843, 846 (Bankr. D. Md. 1996) (rejecting affidavit that “fail[ed] to reflect any facts underlying the declaration or any investigation undertaken before the filing of the statement”).

ACCORDINGLY, Plaintiff Joe Hand Promotions, Inc. is directed to submit a compliant affidavit as a supplement to its Motion within fourteen (14) days of the date of issuance of this Order.

IT IS SO ORDERED this 8th day of July, 2024.



CHARLES B. GOODWIN
United States District Judge